IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 955 of 2001
In SPECIAL CIVIL APPLICATION No. 9341 of 2000
With
LETTERS PATENT APPEAL No. 446 of 2001
In SPECIAL CIVIL APPLICATION No. 4767 of 2000
With
CIVIL APPLICATION NO. 5655 OF 2001
In LETTERS PATENT APPEAL NO. 955 OF 2001
With
CIVIL APPLICATION NO.5485 OF 2001
In LETTERS PATENT APPEAL No. 446 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HASMUKH JAGJIVANDAS THAKKER - Appellant(s)

Versus

PRATIK CINDER SUPPLY COMPANY - Respondent(s)

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Appearance :
MR. K.V. SHELAT for Appellant
MS. MOXA G. THAKKER for Appellant
M/S. TRIVEDI & GUPTA for Respondent

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG &
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 04/07/2005

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. This judgement shall dispose of Letters Patent Appeal Nos.955 and 456 of 2001.

2. It appears that being aggrieved by Award dated 25th November, 1999 made by the Labour Court in Reference (LCA) No.1405 of 1988, the employer, so also the employee, filed Special Civil Applications. Special Civil Application No.4767 of 2000 was filed by the Company, while Special Civil Application No.9341 of 2000 was filed by the employee. The Labour Court, after hearing the parties, by the award under challenge, partly allowed the Reference, quashed the order of termination and directed reinstatement of the employee/workman with 40% back-wages. The employee says that the payment of 40% back-wages is less, while the employer states that the order of

reinstatement of the employee is illegal. The learned single Judge, after hearing both the parties, found that the Labour Court was absolutely justified in balancing the equities taking into consideration the totality of the circumstances and the facts of the case.

3. Learned Counsel for the parties took us through the pleadings, the other documents and the findings recorded by the Labour Court, to contend that the award made by the Labour Court required modification in their favour.

4. After going through the entire material available and the findings recorded by the Labour Court and confirmed by the learned single Judge, we are of the opinion that the Labour Court was absolutely justified in setting aside the order of termination and directing reinstatement with 40% back-wages. It is to be noted that the Labour Court was conscious of the fact that there were some lapses on the part of the employee, therefore, it did not award 100%

back-wages. Taking into consideration the findings recorded by the Labour Court, so also the learned single Judge, we are of the opinion that no interference is called for. Both the appeals are dismissed. It is expected of the parties that without any further intervention by the Labour Court or this Court, they would implement the award made by the Labour Court.

5. Consequently, the Civil Applications are also rejected.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.***]

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